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ABSTRACT

In 1997, an active year for school-finance legislation, states responded in a variety of ways to court decisions. This report provides an overview of school-finance legislation for that year. Historically, school-finance suits have focused on the equity and adequacy of state funding, and the decisions handed down in 1997, for the most part, followed that pattern. As school-finance cases are decided on a state-by-state basis, what is deemed constitutional in one state may not be held so in another. Where the state educational-finance system has been upheld, courts have generally said that funding for a minimal basic education system was sufficient. Where the system has been invalidated, courts have called for funding to support high-quality systems. One figure is included. A detailed table summarizes litigation outcomes by state and the status of each state's school-funding system as of June 1997. (LMI)

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 June 1997
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State School Finance Litigation: A Summary and an Analysis

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By Terry N. Whitney, *Senior Policy Specialist*
 Deborah A. Verstegen, *Associate Professor, University of Virginia*

This was an active year for school finance litigation. Four cases were decided by state supreme courts (Illinois, Vermont, Ohio and New Jersey), while another represented a circuit court of appeal decision (Louisiana). There are several suits that have yet to be decided; they are in the process of being appealed or the court has maintained jurisdiction until a remedy is approved. Thirteen suits are pending (see the Ongoing Litigation Activity Summary for a listing of these cases), and others are "in process."

States have responded in a variety of ways to court decisions. Court oversight in Wyoming, Arkansas and New Jersey requires legislatures to fashion a funding system compatible with the court decision within a given period of time. In New Jersey the court set a deadline for the 1997-98 school year calling for the state to achieve "substantial equivalence, approximating 100 percent." Other states have undertaken studies of parts or the entire funding system; these include Arizona, North Dakota, Iowa, Nebraska, Indiana, Wisconsin, New Mexico and Ohio.

In New Hampshire, due to the narrow scope of a 1994 court decision, plaintiffs have initiated a new suit dealing with equity and adequacy. New Hampshire's 1994 Supreme Court decision centered exclusively on the state's duty to fund education, overturning a lower court decision.

Historically, school finance suits have focused on the equity and adequacy of state funding, and the decisions handed down in 1997 for the most part followed that pattern. In recent years, however, several cases have dealt with other questions such as facilities, special education funding or the treatment of different types of school districts. In Alaska, rural communities are not required to contribute to school operating costs and must contribute only 2

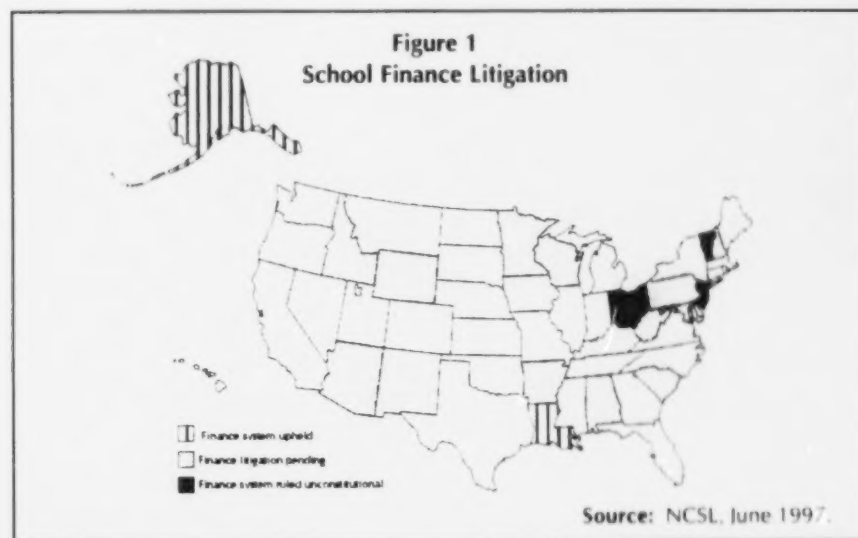
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percent of school construction costs to receive state building grants, whereas municipalities must contribute comparatively large amounts to both operating and construction costs. As a result of this policy, officials from a municipal/borough school system filed suit for relief (*Education Week*, Washington, Feb. 19, 1997). The case was recently concluded and is summarized in the litigation summary. A pending suit in New York state represents the first time a school finance case has been brought under Title VI of the U.S. Civil Rights Act of 1964. In Arizona, funds for facilities were the sole focus of the case.

As school finance suits are decided on a state-by-state basis, what is deemed constitutional in one state may not be held so in another. If one divides the decisions into two groups, those that found the funding system constitutional versus those that did not, it is difficult to see any particular pattern. Since 1971 a total of 34 suits have been ruled on by state courts. Sixteen state school finance systems have been ruled unconstitutional while 18 have been ruled constitutional. Further, some courts are more tolerant of disparities in per-pupil expenditures than others. As prior decisions have shown, in states such as Illinois (1996), North Dakota (1994), South Dakota (1994) and Virginia (1994), the courts found nothing in their states' constitutions forbidding variations in spending across districts. In South Dakota, the court noted that the state constitution tolerates disparities in both spending and tax rates. Yet in New Jersey, the Supreme Court found in 1994 the funding system unconstitutional for a fourth time due in large part to disparities in expenditures across the state's 609 school districts. Despite a number of differences, the issue of adequacy and how it is defined may be one issue that divides constitutional from unconstitutional systems.

Where the system has been upheld, courts have generally said funding for a minimal basic education system was sufficient. Where it has been invalidated, courts have called for funding to support high quality systems.



Litigation Summary

State/ Date	Case Summary/ Case Reference	Status
Alaska January 1997	Unlike most finance cases, the issue facing the Supreme Court did not involve a determination of equity nor adequacy. The Matanuska-Susitna Borough school district and several residents there challenged the school funding policy in 1986, arguing that different treatment of rural and city districts violated the right of equal protection under the state constitution. <i>Matanuska-Susitna Borough School District vs. State of Alaska</i> Supreme Court No. S-5513, Superior Court No. 3PA-86-2022 CIV	The Alaska Supreme Court upheld a law that gives a greater share of state money to regional school districts than to municipal and borough systems. The high court's opinion affirmed a state judge's decision that the plaintiffs failed to show that the state's system translated into disparities in educational opportunities for students.
Vermont February 1997	This case was brought by the American Civil Liberties Union, on behalf of two students, two school districts, and five towns. "The current system for funding public education in Vermont, with its substantial dependence on local property taxes and resultant wide disparities in revenues available to local school districts, deprives children of an equal educational opportunity in violation of Vermont's Constitution." <i>Brigham vs. State</i> CV 96-502	The Vermont Supreme Court ruled that the state's school-funding formula is unconstitutional. "We hold only that to fulfill its constitutional obligation the state must ensure substantial equality of educational opportunity throughout Vermont."
Louisiana March 1997	In what may be the briefest opinion issued at the appellate level, the 1st Circuit Court of Appeal in Baton Rouge dismissed the suit and issued a one sentence opinion. Essentially, the judges ruled that it is not the courts that should have jurisdiction in determining school funding, but the legislature and the state board. The American Civil Liberties Union and the Orleans Parish school board filed a suit in 1992. Although it does not seek a specific dollar amount for the schools, the ACLU is seeking a court order for a plan that would provide an adequate and equitable education to children statewide. <i>Charlet, et al., vs. Legislature</i> No. 97 CW 0212	Plaintiffs have appealed the Circuit Court ruling. A planned special session on education was canceled to make way for one on Medicaid.

Litigation Summary (continued)

State/ Date	Case Summary/ Case Reference	Status
Ohio March 1997	By a narrow 4-3 margin, the Supreme Court ruled that Ohio's system of financing its schools is unconstitutional. The Court stayed the effect of the decision for twelve months. The justices sent the case back to Perry County trial court which had overturned the system in July 1994, to evaluate the legislature's actions. An appeals court had reversed the trial court's decision in 1995 (No. 94-CA-477). <i>DeRolph et al., vs. The State of Ohio</i> No. 95-2066	Governor George Voinovich, Senate President Richard Finan and Speaker of the House Jo Ann Davidson took issue with the Court's not ignoring the state's efforts to reduce the equity gap since its initial filing. In 1991, the state formula guarantee was \$2,636 for every pupil, and today it is \$3,500. Additionally, in FY 1996, spending for nearly 73 percent of Ohio's districts fell within the \$4,000 to \$5,500 range.
New Jersey May 1997	Governor Christine Todd Whitman and the Legislature adopted, then submitted, a funding plan to the state Supreme Court in December as required by the court's July 1994 order. The plan defines a "thorough and efficient" education by core curriculum and content standards that have been promulgated and adopted through state department of education rules and regulations. The plan "costs out" the content standards and funds each district at the determined amount. The Comprehensive Improvement and Financing Act of 1996 also requires the Commission of Business efficiency in the public schools to develop advisory cost benchmarks for the efficient provision of non-instructional services by school districts including food services, transportation, operation and maintenance of plant services, purchasing, extracurricular and co-curricular activities, health and guidance services, and other support services. <i>Abbott vs. Burke IV</i> No. M-622-96, decided May 14, 1997	Plaintiff filed suit again in January to invalidate the Whitman plan. Oral arguments were made in March. The Supreme Court ruled the plan unconstitutional on May 14, 1997.

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Ongoing Litigation Activity

State/ Date	Case Summary/ Case Reference	Status
Alabama	A judgment in favor of the plaintiffs was given in March 1993 by then circuit court Judge Eugene Reese. Since then Judge Reese ran for the Supreme Court and lost, the governorship has changed twice, the deadline for compliance with the court's order has been set back twice and the legislature has not yet formulated a reform plan as required by Judge Reese's opinion. <i>Alabama Coalition for Equity, Inc. vs. Hunt</i> CV-90-883-R <i>Harper vs. Hunt</i> CV-91-0117-R	Unlike his predecessor, Governor Fob James directed the attorney general to appeal the 1993 circuit court ruling to the Supreme Court in March 1995. The governor and attorney general alleged that Judge Reese usurped the powers and duties of the state legislature, the governor and state agencies by telling them to take specific actions to improve schools and ordering them to report to the court and obtain his approval. In January 1997 the state Supreme Court affirmed Judge Reese's opinion and gave the Legislature until January 1998 to adopt a reform plan.
Arizona	<i>Roosevelt Elementary School District #66, et al v. Lisa Graham Keegan, et al</i> CV-91-13087 <i>Roosevelt Schools vs. Bishop</i> 877 P.2d 806 (1994)	To date, this is the only school finance case brought solely on the condition of school facilities and the method by which state aid is distributed. On Jan. 15, 1997, the Supreme Court issued an order finding that "the Legislature has not enacted legislation which will ensure that substantial disparities will not be created amongst the schools in Arizona through the [existing] statewide school financing system. It is further ordered that jurisdiction is vested in the trial court to monitor events and fashion such remedies as may be appropriate or necessary from time to time."

Ongoing Litigation Activity (continued)

State/ Date	Case Summary/ Case Reference	Status
Idaho	Two suits were filed by different groups of school districts against the state in 1990, arguing that the state failed to provide a "uniform and thorough" system of public education as required by the state's Constitution. One group focused its complaint on the total amount of money spent, while the other group stressed spending disparities. The cases were consolidated, but the state Supreme Court threw out the equity claims in 1993, after the Legislature revised the state aid formula and approved a \$92 million increase for public education, the largest increase ever. Accordingly, the group of districts pursuing the equity claim withdrew from the suit. The remaining claims were dismissed and ruled moot in December 1994 by a District Court Judge in light of the substantive changes made to the finance formula by the Legislature. <i>Idaho Schools for Equal Educational Opportunity vs. Idaho Legislature</i> Case No. 93882, Idaho Sup. Ct. 1993, Op. No. 28 at 17	The ISEEO suit was revived in March 1996 when the State Supreme Court overturned the District Court's dismissal saying that the issue of "thoroughness, is a matter of great fundamental importance."
Maryland	This class action suit claims that Maryland has denied public school children in Baltimore a "thorough and efficient education" as required by the state Constitution because of the district's limited financial resources. <i>ACLU vs. Maryland Board of Education</i> 94-340058/ICE189672	A settlement was reached between the governor, legislature, state board of education, the superintendent of education and the plaintiffs during the recently completed legislative session. The plan will emulate the Chicago Public Schools governance structure. A CEO of the Baltimore City school district will be appointed and the mayor and governor will appoint a new school board jointly. Baltimore City schools will get \$13 million of new money in FY 1998 and \$50 million each of the subsequent four years thereafter. The legislature will also make a minimum of \$10 million available for school construction.

Ongoing Litigation Activity (continued)

State/ Date	Case Summary/ Case Reference	Status
Minnesota	Two separate lawsuits are pending. On Sept. 18, 1996, the St. Paul public school district filed suit in Ramsey County District Court arguing that Minnesota has provided insufficient funding to adequately educate the city's increasing population of students living in poverty, limited English proficient students, minority students and other special needs students. The St. Paul suit was filed exactly one year after the NAACP filed a class action suit arguing that Minnesota has failed to provide an adequate education for Minneapolis public school students because of the number of low-income and minority students in that district compared to neighboring suburban districts. The St. Paul school district had requested to join the NAACP lawsuit; however, the request was denied. <i>ISD #625 (St. Paul) vs. State of Minnesota</i> <i>Minneapolis NAACP vs. State of Minnesota</i>	The NAACP suit is pending in the Hennepin County District Court. A motion to dismiss was denied the state in the St. Paul case.
New Hampshire	The plaintiffs contend that the state, which spends the least of all states in providing state support for K-12 education, is violating the state constitution by not providing an adequate education or sufficient school funding. Local property taxes generate roughly 90 percent of education funds. <i>Claremont School District vs. Governor</i> <i>No. 92-7111</i>	A notice of appeal was filed in the New Hampshire Supreme Court in January 1997 by the Claremont Lawsuit Coalition, representing five plaintiff school districts. On Dec. 6, 1996, Merrimack Superior Court Judge George Manias entered a judgment for the state, ruling that the districts failed to prove that the state is not fulfilling its responsibility and that the courts need to step in. "Those matters are for the governor and the legislature to address."

Ongoing Litigation Activity (continued)

State/ Date	Case Summary/ Case Reference	Status
New York	In June 1995, a New York Court of Appeals judge denied the state's motion to dismiss the complaint ruling that the suit brought by numerous students, parents, teachers and community school boards had stated viable cause of action under the Education Article in the New York state Constitution and Title VI of the 1964 Civil Rights Act. <i>Campaign for Fiscal Equity, Inc. vs. State of New York</i> 86 NYS2d 307, 1995	Case is in "pre-discovery phase" in the New York State Court of Appeals (New York's highest court). A Judicial Hearing Officer has been appointed to speed up the proceedings. Trial is anticipated to begin in the fall.
North Carolina	Suit filed in 1994 by five low-wealth districts who argued that they cannot provide adequate education under the current funding formula. Case has been appealed to the state supreme court. Oral arguments were made in October. A final decision is expected in late summer or early fall 1997. <i>Leandro et al vs. State of North Carolina</i> 179 PA 96 468 SE2d543	In a unanimous decision the North Carolina Court of Appeals dismissed the suit in March 1996. The court determined that the state constitution requires the state to provide children equal access to education, but not equal educational opportunities.
Pennsylvania	This suit was filed in 1991. The plaintiffs claim that Pennsylvania's basic education funding system violates the education clause of the Pennsylvania Constitution because it does not provide a "thorough and efficient system of public education for the children of the Commonwealth," and that the state's funding scheme deprives them of the equal protection of laws guaranteed by both the state and federal constitution. <i>Pennsylvania Association of Rural and Small Schools vs. Casey</i> CV-No. 11MD 1991, Commonwealth Court of Pennsylvania	Two hundred and fifteen of 501 of the state school districts are plaintiffs in the PARSS suit. Oral arguments were completed in early 1997, the last day of trial is scheduled for May 19. Final briefs are due on June 20.

Ongoing Litigation Activity (continued)

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South Carolina	Initial suit was initiated on Nov. 1, 1993. A second amended complaint was filed July 20, 1995, challenging South Carolina's education funding system under the education and equal protection clauses of the South Carolina Constitution, the 14th. Amendment to the U.S. Constitution, and state statute, S.C. Code Ann. Sec. 59-20-10, et seq. <i>Abbeville vs. State of South Carolina</i> Common Pleas Court, 93-CP-31-169	The state filed a motion to Dismiss, which was granted on Sept. 20, 1996. Plaintiffs appealed the common pleas ruling to the State Supreme Court. Final briefs are due in late May and a date for oral arguments will be set soon thereafter.
West Virginia	Original case was decided in 1982, at which time the state's funding system was deemed to violate the state constitution's requirement for a "thorough and efficient system of free schools." Case was refiled in 1995 by the plaintiff's attorney because the state had not gone far enough to comply with Judge Recht's 1982 opinion. <i>Pauley vs. Bailey</i> <i>Tumblin vs. Gainer</i> Civil Action No. 75-1268	As part of the 1982 decision, Judge Recht wrote a "master plan" so exhaustively detailed that it even outlined the appropriate square footage for classrooms and the proper acreage for school facilities. At issue is whether Recht's list of mandated school resources is still a valid yardstick for measuring quality in education.
Wisconsin	Nearly 100 school districts across the state have sued the state claiming its annual distribution of roughly \$2 billion in aid is unfair because it exacerbates funding inequalities. <i>Vincent, et al vs. Voight et al</i> No. 95-CV-2586. Dane County Circuit Court	The legislature has set up a "Special Committee on the School Aid Formula." The committee began meeting in late 1996 and will finish its work by June so that any recommendations can be made and incorporated into the biennial budget process.

Ongoing Litigation Activity (continued)

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Wyoming	On Nov. 8, 1995, the Supreme Court issued its opinion in <i>Campbell County School District v. State of Wyoming</i>, affirming the district court's decision that the municipal divisor, recapture and optional mills features of the school finance formula were unconstitutional. The court also reversed the district court's decision that the divisor and capital construction features of the formula were constitutional. The Legislature will meet in special session in June to complete its remedy plan prior to its submission to the Supreme Court by a July 1997 deadline. 1995 WL 654524 (Wyo.)	As directed by the Court, the state has completed an extensive study of its K-12 finance system that includes a regional cost of education index and cost of a "basket" of educational goods and services to which each Wyoming student is entitled.

Source for Case Summary information provided by Education Week. Minnesota Case Study summary provided by Anne Marie Butler, Minnesota Senate Education Committee.

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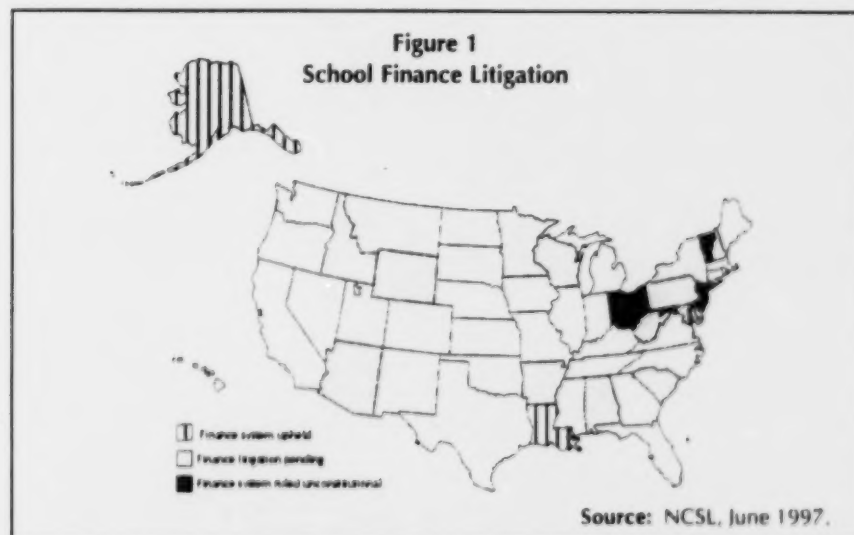
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Arizona	<i>Roosevelt Elementary School District #66, et al v. Lisa Graham Keegan, et al</i> CV-91-11087 <i>Roosevelt Schools vs. Bishop</i> 877 P. 2d 806 (1994)	To date, this is the only school finance case brought solely on the condition of school facilities and the method by which state aid is distributed. On Jan. 15, 1997, the Supreme Court issued an order finding that "the Legislature has not enacted legislation which will ensure that substantial disparities will not be created amongst the schools in Arizona through the [existing] statewide school financing system. It is further ordered that jurisdiction is revested in the trial court to monitor events and fashion such remedies as may be appropriate or necessary from time to time."

Ongoing Litigation Activity (continued)

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Idaho	Two suits were filed by different groups of school districts against the state in 1990, arguing that the state failed to provide a "uniform and thorough" system of public education as required by the state's Constitution. One group focused its complaint on the total amount of money spent, while the other group stressed spending disparities. The cases were consolidated, but the state Supreme Court threw out the equity claims in 1993, after the Legislature revised the state aid formula and approved a \$92 million increase for public education, the largest increase ever. Accordingly, the group of districts pursuing the equity claim withdrew from the suit. The remaining claims were dismissed and ruled moot in December 1994 by a District Court judge in light of the substantive changes made to the finance formula by the Legislature. <i>Idaho Schools for Equal Educational Opportunity vs. Idaho Legislature</i> Case No. 93882, Idaho Sup. Ct. 1993, Op. No. 28 at 17	The ISFEO suit was revived in March 1996 when the State Supreme Court overturned the District Court's dismissal saying that the issue of "thoroughness, is a matter of great fundamental importance."
Maryland	This class action suit claims that Maryland has denied public school children in Baltimore a "thorough and efficient education" as required by the state Constitution because of the district's limited financial resources. <i>ACLU vs. Maryland Board of Education</i> 94-14005B/ICE 189672	A settlement was reached between the governor, legislature, state board of education, the superintendent of education and the plaintiffs during the recently completed legislative session. The plan will emulate the Chicago Public Schools governance structure. A CEO of the Baltimore City school district will be appointed and the mayor and governor will appoint a new school board jointly. Baltimore City schools will get \$11 million of new money in FY 1998 and \$50 million each of the subsequent four years thereafter. The legislature will also make a minimum of \$10 million available for school construction.

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New Hampshire	The plaintiffs contend that the state, which spends the least of all states in providing state support for K-12 education, is violating the state constitution by not providing an adequate education or sufficient school funding. Local property taxes generate roughly 90 percent of education funds. <i>Claremont School District vs. Governor</i> <i>No. 92-7111</i>	A notice of appeal was filed in the New Hampshire Supreme Court in January 1997 by the Claremont Lawsuit Coalition, representing five plaintiff school districts. On Dec. 6, 1996, Merrimack Superior Court Judge George Manias entered a judgment for the state, ruling that the districts failed to prove that the state is not fulfilling its responsibility and that the courts need to step in. "Those matters are for the governor and the legislature to address."

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Ongoing Litigation Activity (continued)

State/ Date	Case Summary/ Case Reference	Status
New York	In June 1995, a New York Court of Appeals judge denied the state's motion to dismiss the complaint ruling that the suit brought by numerous students, parents, teachers and community school boards had stated viable cause of action under the Education Article in the New York state Constitution and Title VI of the 1964 Civil Rights Act. <i>Campaign for Fiscal Equity, Inc. vs. State of New York</i> 86 NY52^d 107, 1995	Case is in "pre-discovery phase" in the New York State Court of Appeals (New York's highest court). A Judicial Hearing Officer has been appointed to speed up the proceedings. Trial is anticipated to begin in the fall.
North Carolina	Suit filed in 1994 by five low-wealth districts who argued that they cannot provide and adequate education under the current funding formula. Case has been appealed to the state supreme court. Oral arguments were made in October. A final decision is expected in late summer or early fall 1997. <i>Leandro et al vs. State of North Carolina</i> 179 PA 96 468 SE2d541	In a unanimous decision the North Carolina Court of Appeals dismissed the suit in March 1996. The court determined that the state constitution requires the state to provide children equal access to education, but not equal educational opportunities.
Pennsylvania	This suit was filed in 1991. The plaintiffs claim that Pennsylvania's basic education funding system violates the education clause of the Pennsylvania Constitution because it does not provide a "thorough and efficient system of public education for the children of the Commonwealth," and that the state's funding scheme deprives them of the equal protection of laws guaranteed by both the state and federal constitution. <i>Pennsylvania Association of Rural and Small Schools vs. Casey</i> CV No. 11MD 1991, Commonwealth Court of Pennsylvania	Two hundred and fifteen of 501 of the state school districts are plaintiffs in the PARSS suit. Oral arguments were completed in early 1997, the last day of trial is scheduled for May 19. Final briefs are due on June 20.

Ongoing Litigation Activity (continued)

State/ Date	Case Summary/ Case Reference	Status
South Carolina	Initial suit was initiated on Nov. 1, 1993. A second amended complaint was filed July 20, 1995, challenging South Carolina's education funding system under the education and equal protection clauses of the South Carolina Constitution, the 14th. Amendment to the U.S. Constitution, and state statute, S.C. Code Ann. Sec. 59-20-10, et seq. <i>Abbeville vs. State of South Carolina</i> Common Pleas Court, 93-CP-31-169	The state filed a motion to Dismiss, which was granted on Sept. 20, 1996. Plaintiffs appealed the common pleas ruling to the State Supreme Court. Final briefs are due in late May and a date for oral arguments will be set soon thereafter.
West Virginia	Original case was decided in 1982, at which time the state's funding system was deemed to violate the state constitution's requirement for a "thorough and efficient system of free schools." Case was refiled in 1995 by the plaintiff's attorney because the state had not gone far enough to comply with Judge Recht's 1982 opinion. <i>Pauley vs. Bailey</i> <i>Tomblin vs. Garner</i> Civil Action No. 75-1268	As part of the 1982 decision, Judge Recht wrote a "master plan" so exhaustively detailed that it even outlined the appropriate square footage for classrooms and the proper acreage for school facilities. At issue is whether Recht's list of mandated school resources is still a valid yardstick for measuring quality in education.
Wisconsin	Nearly 100 school districts across the state have sued the state claiming its annual distribution of roughly \$2 billion in aid is unfair because it exacerbates funding inequalities. <i>Vincent, et al vs. Voight et al</i> No. 95-CV-2586, Dane County Circuit Court	The legislature has set up a "Special Committee on the School Aid Formula." The committee began meeting in late 1996 and will finish its work by June so that any recommendations can be made and incorporated into the biennial budget process.

Ongoing Litigation Activity (continued)

State/ Date	Case Summary/ Case Reference	Status
Wyoming	On Nov. 8, 1995, the Supreme Court issued its opinion in <i>Campbell County School District v. State of Wyoming</i>, affirming the district court's decision that the municipal divisor, recapture and optional mills features of the school finance formula were unconstitutional. The court also reversed the district court's decision that the divisor and capital construction features of the formula were constitutional. The Legislature will meet in special session in June to complete its remedy plan prior to its submission to the Supreme Court by a July 1997 deadline. 1995 WL 654524 (Wyo.)	As directed by the Court, the state has completed an extensive study of its K-12 finance system that includes a regional cost of education index and cost of a "basket" of educational goods and services to which each Wyoming student is entitled.

Source for Case Summary information provided by *Education Week*. Minnesota Case Study summary provided by Annie Marie Butler, Minnesota Senate Education Committee.

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